

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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**JOSE ALBERTO MARTINEZ  
HERNANDEZ ET AL.,**

**Plaintiff,**

**-against-**

**EAST WINGERS INC. ET AL.,**

**Defendants.**  
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**17-cv-2176 (ALC) (BMC)**

**ORDER**

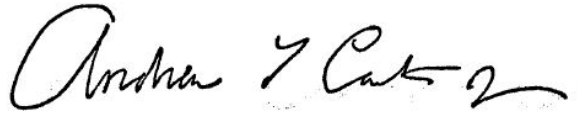
**ANDREW L. CARTER, JR., United States District Judge:**

On September 29, 2017, a complaint was filed on behalf of plaintiff, Emilio Jeremias Ramirez Rojas (“Emilio”), for unpaid minimum wage and overtime wages pursuant to the Fair Labor Standards Act and New York Labor Law. ECF No. 29. On December 13, 2018, Plaintiffs’ counsel moved to withdraw as counsel for Plaintiff Emilio. ECF No. 78. On February 19, 2019, the Court granted Plaintiffs’ counsel motion to withdraw. ECF No. 86. Since that time, Plaintiff Emilio has failed to appear in this action. On October 16, 2020, the Court ordered Plaintiff Emilio to show cause by November 13, 2020 as to why this action should not be dismissed without prejudice as to Plaintiff Emilio for failure to prosecute the case pursuant to Fed. R. Civ. P. 41(b). ECF No. 94. Such showing was not made.

Accordingly, Plaintiff Emilio and his claims are dismissed without prejudice for failure to prosecute pursuant to Fed. R. Civ. P. 41(b). *See LeSane v. Hall's Sec. Analyst, Inc.*, 239 F.3d 206, 209 (2d Cir. 2001) (“[I]t is unquestioned that Rule 41(b) also gives the district court authority to dismiss a plaintiff's case sua sponte for failure to prosecute . . .”). Plaintiffs’ counsel is directed to send this Order to Plaintiff Emilio’s last known address and file proof of service forthwith. The Clerk of Court is respectfully directed to terminate Plaintiff Emilio Jeremias Ramirez Rojas from this action.

**SO ORDERED.**

**Dated:   October 29, 2021**  
**New York, New York**

A handwritten signature in black ink, appearing to read "Andrew L. Carter, Jr.", written in a cursive style.

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**ANDREW L. CARTER, JR.**  
**United States District Judge**